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SENATE BILL 868

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

John C. Ryan

AN ACT

RELATING TO PUBLIC REGULATION; PROVIDING FOR A REFUND OF FEES
IN CERTAIN SITUATIONS; REMOVING ENFORCEMENT DUTIES OF THE
ATTORNEY GENERAL.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. A new section of the Public Utility Act,
Section 62-13-2.1 NMSA 1978, is enacted to read:

"62-13-2.1. [NEW MATERIAL] REFUND OF FEES. --If the
commission dismisses a complaint for lack of probable cause,
the commission may refund a fee paid pursuant to Subsection B
of Section 62-13-2 NMSA 1978 if the commission determines that
the dismissed complaint was filed in good faith. "

Section 2. Section 70-3-19 NMSA 1978 (being Laws 1969,
Chapter 71, Section 9, as amended) is amended to read:

"70-3-19. ENFORCEMENT- - PENALTIES. - -

underscored material = new
[bracketed material] = delete

1 A. If as a result of investigation the commission
2 has good cause to believe that any person is violating any
3 provision of Subsection A of Section 70-3-18 NMSA 1978 or any
4 regulation adopted by the commission under the Pipeline Safety
5 Act, the commission shall, when practicable and except in the
6 case of a knowing and willful violation, give the person
7 notice of the violation and an opportunity to comply. If the
8 commission is unable within a reasonable time to obtain
9 voluntary cooperation to prevent the continuing violation, the
10 commission may apply for an injunction in the district court
11 of the county in which the violation occurs to secure
12 compliance. The failure to give notice and afford an
13 opportunity to comply shall not preclude the granting of
14 injunctive relief.

15 B. ~~[In any action to enforce the provisions of the~~
16 ~~Pipeline Safety Act or any regulation of the commission, the~~
17 ~~commission and the state shall be represented by the attorney~~
18 ~~general.~~

19 ~~C.]~~ The trial before the district court shall be
20 before the court without jury, and the court shall enter
21 judgment and orders enforcing the judgment as the public
22 interest and equities of the case may require.

23 ~~D.]~~ C. Any person owning or operating gas
24 pipeline facilities or engaged in the transportation of gas or
25 owning or operating oil pipeline facilities or engaged in the

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[bracketed material] = delete

1 transportation of oil who has been determined by order of the
2 commission after hearing to have violated any provision of
3 Subsection A of Section 70-3-18 NMSA 1978 or any regulation
4 promulgated under the Pipeline Safety Act applicable to
5 intrastate pipeline facilities shall be subject to a civil
6 penalty in an amount not to exceed twenty-five thousand
7 dollars (\$25,000) for each violation for each day that the
8 violation persists, except that the maximum civil penalty
9 shall not exceed five hundred thousand dollars (\$500,000) for
10 any related series of violations.

11 ~~[E-]~~ D. In determining the amount of the penalty,
12 the commission shall consider the nature, circumstances and
13 gravity of the violation and, with respect to the person found
14 to have committed the violation, the degree of culpability,
15 any history of prior violations, the effect on ability to
16 continue to do business, any good faith in attempting to
17 achieve compliance, ability to pay the penalty and ~~[such]~~
18 other matters as justice may require.

19 ~~[F-]~~ E. Judicial review of any provision of this
20 section may be accomplished in the same manner as is found in
21 Section 70-3-15 NMSA 1978.

22 ~~[G-]~~ F. Any person who willfully and knowingly
23 injures or destroys or attempts to injure or destroy an
24 intrastate pipeline facility shall upon conviction be subject
25 for each offense to a fine not to exceed twenty-five thousand

1 dollars (\$25,000) or imprisonment for a term not to exceed
2 fifteen years, or both.

3 ~~[H.]~~ G. Any person who willfully and knowingly
4 damages, removes or destroys any pipeline sign, right-of-way
5 marker required by the Pipeline Safety Act or any regulation
6 or order issued ~~[thereunder]~~ pursuant to that act shall upon
7 conviction be subject for each offense to a fine of not more
8 than five thousand dollars (\$5,000) or imprisonment for a term
9 not to exceed one year, or both. "

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